

REVISED COPY AS OF 3/22/2012

Intro. Res. No. 1341-2012

Laid on Table 3/27/2012

Introduced by Presiding Officer, on request of the County Executive

**RESOLUTION NO. -2012, ADOPTING LOCAL LAW
NO. -2012, A LOCAL LAW TO AMEND THE PROMPT
PAYMENT POLICY FOR ALL NOT-FOR-PROFIT CONTRACT
AGENCIES**

WHEREAS, there was duly presented and introduced to this County Legislature at a regular meeting held on , 2012, a proposed local law entitled, "**A LOCAL LAW TO AMEND THE PROMPT PAYMENT POLICY FOR ALL NOT-FOR-PROFIT CONTRACT AGENCIES**"; and said local law in final form is the same as when presented and introduced; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. -2012, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO AMEND THE PROMPT PAYMENT POLICY
FOR ALL NOT-FOR-PROFIT CONTRACT AGENCIES**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF
SUFFOLK**, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that Local Law No. 2-2008 and Local Law No. 41-2010 respectively, established a County payment policy to pay child care providers and all not-for-profit contract agencies in a prompt manner.

This Legislature also finds that adherence to this policy in a period of fiscal crisis on the federal, State and County levels will escalate the challenges confronting the County in its efforts to equitably allocate its limited revenues in a timely manner.

This Legislature further finds and determines that pursuant to his authority under Suffolk County Charter § C4-27 the County Executive has declared a fiscal emergency and has formally notified the County Legislature that there is a funding deficiency for 2012 and available revenues will be less than total amounts appropriated for the current fiscal year.

This Legislature also finds that the County is currently facing a 3-year deficit of \$530 million and funding does not exist to meet penalty interest payments required by the County payment policy in the event that an invoice is paid later than is required by the policy.

This Legislature further finds that it is the policy of the County to promptly pay all child care providers and not-for-profit contract agencies, however, during a fiscal crisis, it is imprudent to charge penalties to the County if it is unable to comply with this policy.

Therefore, the purpose of this law is to amend the County's prompt payment policy to add an exception to compliance when the County Executive has declared a County funding deficiency.

Section 2. Amendments.

- I. Article IX of Chapter 189 of the SUFFOLK COUNTY CODE is hereby amended as follows:

Article IX. Payments to Child-Care Providers

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§ 189-46. Prompt payment policy.

* * * *

B. The County shall not be required to make payment within 30 days of receipt of invoice when:

- (1) The necessary appropriation required to authorize payment has not been enacted;
- (2) The County is entitled to a set-off against the invoice amount;
- (3) Statutory or contractual provisions, if any, make payment within 30 days impossible; or
- (4) Some or all of the invoice amount must be withheld to satisfy claims, liens or judgments against the child-care provider; any remaining amount due the child-care provider shall be paid within 30 days of receipt of invoice.
- (5) The County Executive has advised the Legislature of a funding deficiency pursuant to Suffolk County Charter section C4-27.

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- II. Article XI of Chapter 189 of the SUFFOLK COUNTY CODE is hereby amended as follows:

Article XI. Payment Policy for Nonprofit Contract Agencies

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§189-56. Prompt payment policy.

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B. The County shall not be required to make payment within 30 days of receipt of invoice when:

- (1) The necessary appropriation required to authorize payment has not been enacted;

- (2) The County is entitled to a set-off against the invoice amount;
- (3) Statutory or contractual provisions, if any, make payment within 30 days impossible; or
- (4) Some or all of the invoice amount must be withheld to satisfy claims, liens or judgments against the contract agency; any remaining amount due the contract agency shall be paid within 30 days of receipt of invoice.
- (5) The County Executive has advised the Legislature of a funding deficiency pursuant to Suffolk County Charter section C4-27.

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Section 3. Applicability.

This law shall apply to actions occurring on or after the effective date of this law.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not effect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. SEQRA Determination.

This Legislature, being the State Environment Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20) and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 6. Effective Date.

This law shall take effect immediately upon filing in the Office of the Secretary of State.

[] Brackets denote deletion of existing language.

___ Underlining denotes addition of new language.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date